

### Remarks

Claims 1, 2, 4, 6, and 8 through 20 are now pending.

Claim 1 has been amended:

(A) in response to the Examiner's indicated informalities, and

(B) to emphasize that a portion of the silica particles of the silica reinforcement

(silica aggregates which contain hydroxyl groups on their surface) contain geminal hydroxyl in a ratio of geminal hydroxyl to hydroxyl groups of at least 0.2/1.

### The Rejection

The following U.S. patent has been relied upon to reject the Applicants' claims:

6,998,448

Zanzig, et al (Zanzig)

### Rejection Based Upon Non-statutory Obviousness-Type Double Patenting

The Applicants' claims 1, 2, 6 and 8 through 20 have been rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1 through 20 of U.S. Patent No. 6,998,448. A Terminal Disclaimer is submitted herewith in response to the aforesaid obviousness-type rejection of the Applicants' claims and reconsideration of the rejection is requested in view thereof. Authorization is given to charge the fee for the Terminal Disclaimer in accordance with 37 C.F.R. Section 1.20(d) in the amount of \$110.00, or any other fees, to our Deposit Account No. 07-1725.

### Rejection under 35 U.S.C. Section 102(f) in view of 35 U.S.C. Section 103(c)

Claims 1, 2, 6 and 8 through 20 have been rejected under 35 U.S.C. Section 102(f) on the basis that the present inventors did not invent the subject matter sought to be patented in this instant patent application in the sense that the invention was made by Zanzig (cited U.S. Patent 6,998,448).

A reconsideration of this rejection of the Applicants' claims is requested in view of comments herein and in view of the provisions of 35 U.S.C. Section 103(c).

## The Invention

It is important to appreciate that the Applicants' claim 1 has been amended to emphasize that a portion of the silica particles (silica aggregates which contain hydroxyl groups on their surface) of the silica reinforcement contains geminal hydroxyl in a ratio of geminal hydroxyl groups to hydroxyl groups of at least 0.2/1.

## Discussion Regarding the Rejection of the Applicants' Claims Under 35 U.S.C. Section 102(f)

### A. Discussion

The newly cited Zanzig patent publication relates to a tire having at least one component of a prescribed rubber composition comprised of the SBR's referred to in the Applicants' claim 1 which is reinforced with particulate reinforcement comprised of silica aggregates with contain hydroxyl groups thereon and optionally carbon black together with a coupling agent.

However, Zanzig does not teach or suggest use of reinforcing filler in a form of silica aggregates which contain hydroxyl groups thereon where a portion of the silica aggregates contain geminal hydroxyl groups in a ratio of geminal hydroxyl to hydroxyl groups of at least 0.2/1 as is required by the Applicants' claim 1.

Accordingly, it is contended that the subject matter of the Applicants' claim 1 is not anticipated by Zanzig in the sense of 35 U.S.C. Section 102(f).

### B. Applicability of 35 U.S.C. Section 102(f) and 35 U.S.C. Section 103(c)

The invention of the Applicants' claims was made prior to July 28, 2003, the filing date of the Applicants' instant patent application Serial No. 10/628,735, and the cited Zanzig patent (U.S. Patent No. 6,998,448) was filed on August 29, 2003 (dependent upon priority provisional Patent Application Serial No. 60/411,467, filed on September 16, 2002).

Both the Applicants' instant patent application and the cited Zanzig U.S. Patent provisional patent application were commonly owned by The Goodyear Tire & Rubber Company on July 28, 2003, the filing date of the Applicants' instant patent application.

Both the Applicants' instant patent application and the cited Zanzig U.S. Patent provisional patent application were co-pending in the U.S. Patent and Trademark Office.

Mr. David Zanzig is a common inventor in the present Applicants' instant patent application and in the cited Zanzig U.S. Patent.

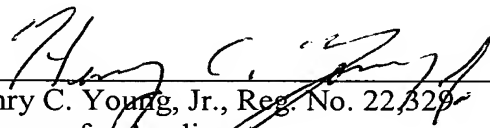
Accordingly, on that basis, it appears that a rejection of the Applicants' pending claims would not be appropriate under 35 U.S.C. Section 102 in general, including 35 U.S.C. Section 102(f), particularly in view of the above contention that the subject matter of the Applicants' claims is not anticipated by the cited Zanzig cited patent.

Further, view of the provisions of 35 U.S.C Section 103(c), it is believed that the subject matter of the cited Zanzig U.S. Patent would not preclude patentability of the claims of the Applicants' instant patent application.

#### **Conclusion**

In view of comments submitted herein, and the accompanying terminal disclaimer, it is contended that the invention of the Applicants' claims is patentably distinct from and is not anticipated by the cited Zanzig reference.

Respectfully submitted,

  
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